

*Disclaimer: This is a Romanian to English translation meant to facilitate the understanding of this document. Should differences appear between the Romanian version and the English version following translation, the Romanian version shall prevail.*

**Law no. 159/2016**

**on the regime of electronic communications networks infrastructure  
and on establishing certain measures for reducing the cost of electronic  
communications networks roll-out, with the subsequent completions**

- **unofficially consolidated text including the provisions in force as of 09  
January 2020 -**

**Preliminary mention:**

- The provisions highlighted in grey are in force from the date mentioned in the subsequent texts in blue font

**CHAPTER I**

**General provisions**

**Article 1.** – (1) The purpose of this law is establishing a unitary legal framework to facilitate the development of electronic communications networks and of the associated physical infrastructure elements by taking measures to speed up the exercise of the right of access to properties and to remedy the inefficiencies affecting the roll-out of electronic communications networks, in order to ensure a sustainable economic framework, to apply regional development policies in line with the objectives of the European Union, as well as to ensure social and territorial cohesion by creating the necessary conditions for increasing the quality of life.

(2) This law establishes:

(a) access to public or private property for the construction, installation, maintenance, replacement or relocation of electronic communications networks or of the associated physical infrastructure elements;

b) access for the providers of public electronic communications networks to the physical infrastructure of network operators;

c) measures regarding the deployment of electronic communications networks and on facilitating and fostering their roll-out by reducing the costs associated with this roll-out.

(3) The provisions of this law do not apply to:

a) electronic communications networks and physical infrastructure elements owned or administrated by public institutions in the national system of defence, public order and national security, except for the situation stipulated in Article 3(5);

b) monitoring stations, electronic communications networks and physical infrastructure elements owned or operated by the National Authority for Management and Regulation in Communications, hereinafter referred to as ANCOM, for the purpose of monitoring radio frequencies in the frequency bands for non-governmental use, except for the situation provided in Article 3(6).

(4) The provisions of this law shall not apply to real estate that is national forest patrimony, according to the legislation in force.

**Article 2 -** (1) For the purposes of this law, the terms and expressions below will be defined as follows:

a) *access on properties* – access on, over, in or under public or privately-owned property, as the case may be, for the purpose of installing, maintaining, replacing and relocating electronic communications networks or associated infrastructure elements;

b) *network operator* – an economic operator authorized to provide electronic communications networks, as well as an economic operator owning, administrating or holding as a concession a physical infrastructure for the installation of electronic communications networks or for the production, transport or distribution of electricity, including public lighting, natural gas, heat and water, including wastewater treatment or disposal and drainage and sewerage systems; a network operator is also an economic operator owning, administrating or holding as a concession a physical infrastructure by means of which transport services are provided, such as - but not limited to - the physical transport infrastructure of the railways, roads, ports and airports;

c) *physical infrastructure* – any element or part of a network, as well as any element necessary to support it, excepting electronic communications networks, that may be used for the installation of electronic communications networks - without becoming elements of that electronic communications network themselves – such as: channels, ducts, pipes, chimneys and manholes, cabinets, buildings and entrances of buildings, antenna supporting structures, towers, masts, pillars and other engineering facilities that are part of that network; cables, including dark fibre, as well as network elements used in supplying water for human consumption, as defined in Article 2(1) of Law no. 458/2002 on the quality of drinkable water, republished, with the subsequent amendments;

d) *access to physical infrastructure* - the right of any provider of public electronic communications networks to access the physical infrastructure elements owned, administrated or held as a concession by a network operator for the purpose of building, installing, maintaining, replacing and relocating electronic communications networks or, where appropriate, the associated physical infrastructure elements;

e) *high-speed electronic communications network* - an electronic communications network capable of providing broadband access services at speeds of minimum 30 Mbps;

f) *civil engineering work* - the result of a set of civil construction works or civil engineering works that is sufficient to perform an economic or technical function by itself and involves the existence of one or several elements of a physical infrastructure;

g) *inner physical infrastructure* – physical infrastructure or facilities at the end-user's site, including co-owned elements, intended to host cable and/or wireless access networks, where such access networks are capable of providing communications services and of connecting the building access point to the electronic communications end-point;

h) *inner physical infrastructure designed for high-speed networks* - the inner physical infrastructure intended to host elements or enable the provision of high-speed electronic communications networks;

i) *major renovation works* - civil construction works or civil engineering works performed at the end-user's site including structural alterations of the whole or a substantial part of the inner physical infrastructure, that require a construction permit;

j) *access point* - the physical point, located inside or outside the building, accessible to the providers of public electronic communications networks, through which the connection with the inner physical infrastructure is made available;

k) *exclusive right* – right granted to an individual entity only, by any legislative, regulatory or administrative instrument, which reserves its right to provide electronic communications services or to perform an activity in the electronic communications field, in a specified geographic area;

l) *special right* – the right granted to a limited number of entities by any legislative, regulatory or administrative instrument, in a specified geographic area, that:

1. designates or limits to two or more the number of entities authorised to provide an electronic communications service or to perform an activity in the electronic communications field, based on other than non-discriminatory, objective and proportionate criteria; or

2. confers to an entity, otherwise than in accordance with the criteria under item 1 above, legal or regulatory advantages that substantially affect all the other entities' capacity to provide

the same service or to perform the same activity in the same geographical area, in substantially equivalent conditions.

m) *public sector body* - a public institution, including a central or local public administration authority, a body governed by public law or an association of one or more public institutions or one or more such bodies governed by public law;

n) *bodies governed by public law* - legal entities which cumulatively have the following characteristics:

1. are set up to meet general interest needs, other than those of industrial or commercial nature;

2. are wholly or mainly financed by public sector bodies or their management is subject to supervision by those bodies or have a management, supervisory or administrative board whose members are appointed - in a proportion of over 50% - by public sector bodies;

o) *non-ancillary rights in rem*: the usufructuary right, the right of use, the easement right, the right of superficies, the right of occupation.

(2) For the purposes of this law, the definitions provided in Article 4(1) of the Government Emergency Ordinance no.111/2011 on electronic communications, approved with amendments and completions by Law no.140/2012, with the subsequent amendments and completions, are also applicable.

## **CHAPTER II**

### **The right of access to properties**

**Article 3** - (1) The providers of public electronic communications networks, authorised under the legislation in the field of electronic communications, have the right of access to properties according to this law.

(2) The persons who provide electronic communications networks exclusively for their own needs, under the provisions of the laws in the electronic communications field, have the right of access on the public property of the state or of the territorial-administrative units, according to this law.

(3) The right of access to properties provided in paragraphs (1) and (2) ensures the use of certain private or public property and is exercised under the legal provisions.

(4) The right of access to a private property and the terms for exercising this right by the persons who provide electronic communications networks exclusively for their own needs will be negotiated by the parties, under the statutory legal provisions.

(5) For building electronic communications networks for the own needs of the state authorities and institutions, including those in the field of national defence, public order and national security, access to properties will be exercised based on this law.

(6) For the installation of monitoring stations, electronic communications networks and physical infrastructure elements necessary for the monitoring of radio frequencies in the frequency bands with non-governmental use, ANCOM's access to properties is based on this law.

**Article 4 –** (1) The providers of electronic communications networks benefit from the right of access to properties on, over, in or under public property real estate, including roadways, bridges, tunnels, technical and public works infrastructure, passways and viaducts, masts, pillars and agriculture lands, under this law, if the following conditions are cumulatively met:

a) the exercise of this right does not breach the special laws setting the legal regime of the respective public property real estate or does not jeopardize the public interest or use for which the respective property is intended;

b) the required works do not jeopardize the specific urbanism, land management or building quality requirements, nor the requirements regarding the protection of the environment, of public health, national defence, public order and national security, which the activities conducted on, over, in or under the respective real estate must observe.

(2) The provisions of paragraph (1) do not preclude the enforcement of the legal framework regarding the legal regime of the rights in rem corresponding to the public property right.

**Article 5 -** (1) The providers of public electronic communications networks have the right of access to properties on, over, in or under private property real estate, if the following conditions are cumulatively met:

a) the right of use over the respective real estate would not be affected or would be insignificantly affected by the performance of such works or – where another provider of electronic communications networks, authorised under the legal provisions in the electronic communications field, has already performed works of access on, over, in or under the respective property – the right of use over the respective real estate would not be permanently affected by an additional restriction triggered by the performance of such works, according to the technical norms provided in Article 29 (2);

b) the exercise of this right or the performance of the required works does not breach imperative legal provisions or jeopardize specific urbanism, land management or building quality requirements, nor the requirements regarding the protection of the environment, of public

health, national defence, public order and national security, which the activities conducted on, over, in or under the respective real estate must observe;

c) there should be a contract concluded under the provisions of Law no. 287/2009 on the Civil Code, republished, with the subsequent amendments, with the holder of the private property right or with the holder of other non-ancillary rights in rem or with the holder of the rights of use or management over the affected real estate, by which the parties agree to establish the terms of exercising the right of access to their private property, or there should be an irrevocable court decision standing as a contract between the parties.

(2) The provisions of paragraph (1) are also applicable to the right of access to the space of joint tenancy in condominium buildings, including as regards the installation of electronic communications networks or of supporting physical infrastructure elements on the walls or terraces of such buildings.

**Article 6 -** (1) Where legal provisions do not provide the contrary, for real estate public property where access works have been carried out, within 60 days from the date of entry into force of the ANCOM President's decision referred to in paragraph (4), economic operators that are not network operators as defined by this law, the network operators for real estate property not covered by Chapter III, public institutions, including the authorities of the central or local public administration, as well as any other entities exercising the right of administration over the public property of the state or of the territorial-administrative units have the obligation to publish – respectively to amend and/or complete, where already published, – on their own websites, if available, or – in the absence of such a website – by posting in visible spots, at the holder's headquarters, the terms under which the right of access to the respective property is exercised and the documents to be submitted by the requester with a view to complying with the respective terms, under the provisions of Article 4.

(2) Where legal provisions do not provide the contrary, after the date of entry into force of the ANCOM President's decision referred to in paragraph (4), for real estate public property where access works have not been carried out, economic operators that are not network operators as defined by this law, the network operators for real estate property not covered by Chapter III, public institutions, including the authorities of the central or local public administration, as well as any other entities exercising the right of administration over the public property of the state or of the territorial-administrative units have the obligation to publish on their own websites, if available, or – in the absence of such a website – by posting in visible spots, at the holder's headquarters, within 30 days from the date of receiving a first request for exercising the right of access to a certain real estate public property, the terms under which the

right of access to the respective property is exercised and the documents to be submitted by the requester with a view to complying with the respective terms, under the provisions of Article 4.

(3) The publishing/posting provided in paragraph (1) will mention at least:

a) the entity exercising the right of administration, as well as its contact details for the purpose of submitting the requests for access to properties;

b) the characteristics of the building on which the right of access is exercised and the areas where this right may be exercised;

c) the maximum tariffs for exercising the right of access, in compliance with the provisions of paragraph (4);

d) any technical limitations on the exercise of the right of access resulting from the characteristics of the real estate property or from its public use or interest;

e) the detailed procedure to be fulfilled by the requesters for the right of access, including any conditions related to the documents to be submitted by them;

f) as for local public administration authorities with attributions in the issuance of construction authorisations - all relevant information regarding the conditions and the procedure applicable to authorising the construction of communications networks and of the associated physical infrastructure elements.

(4) The maximum tariffs that may be charged by the entities provided in paragraphs (1) and (2) will cover the countervalue of the deprivation of use and the amount of the compensation for the direct and ascertained damages caused by the works, as well by the existence and functioning of the electronic communications networks and of the associated infrastructure elements, which are to be established by ANCOM President's decision issued within 9 months from the entry into force of this law.

(5) ANCOM shall set the maximum tariffs stipulated in paragraph (4) on the basis of a detailed methodology, taking into account the market value of the use of the goods affected, respecting the principles of transparency, objectivity and non-discrimination.

(6) The maximum tariffs stipulated in paragraph (4) shall be justified and proportionate to the damage of the respective property, taking into account, *inter alia*, the following tangible and intangible benefits:

a) facilitating the improvement of digital competences and of the infrastructure of the national system for online provision of public services, and improving access to public infrastructure and applications;

b) the added value of the public property of the state or of the administrative-territorial units having electronic communications networks installed, compared to the buildings that do not have the electronic communications infrastructure;

c) the launch of new public services, including the efficiency brought by the implementation of information systems;

d) facilitating social inclusion and reducing the economic gap between developed and undeveloped localities by increasing the added value of the electronic communications sector over other sectors of the economy;

e) facilitating the deployment of intelligent systems, such as intelligent traffic lights or traffic control, with direct effects on reducing utilities spending;

f) facilitating the development of technology parks or of research centres, as well as of other facilities with a similar purpose.

(7) After conducting the works required by the exercise of the right of access on, above, in or under the public property of the state or of the administrative-territorial units or after the completion of the exercise of the right of access, network providers have the obligation to restore the respective real estate public property to its initial condition, under the terms, including deadlines, established by the contract provided under Article 12 or by the Court decision under Article 13.

(8) For the public real estate property assigned as a concession, a lease or a commodatum, the terms under which the right of access is exercised will be established and posted by the providers of the right of administration, in accordance with the provisions of paragraphs (1)-(3), whereas by the holders of the right of concession, of lease or of commodatum – in accordance with the provisions of the documents conferring the right of concession, lease or commodatum.

(9) For the occupancy and use of public real estate property by the providers of electronic communications networks, or considering the carrying on by them of other activities related to the exercise of the right of access to property, regulated by the present law, the central or local public administration authorities, as well as any other entity, may charge only the amounts determined under this law.

(10) The terms established for exercising the right of access according to this article will observe the principles of transparency and objectivity and will be non-discriminatory to all the electronic communications network providers.

(11) Where the holder of the administration right or, as applicable, where the holder of the right of concession, lease or commodatum intends to amend or to complete the terms established in accordance with the provisions of paragraphs (1)-(3), he/she must publish the draft amendment or completion at least 30 days prior to the adoption date, by the means provided in paragraphs (1) or (2).

(12) The providers of electronic communications networks that install networks on masts, pillars or on other physical infrastructure elements, including on roadways, will conclude – in compliance with the regulations on authorizing the performance of construction works – only contracts for exercising the right of access to the physical infrastructure with persons that own or administrate infrastructure elements, under the provisions of this law and will owe tariffs only to these persons.

(13) In the case provided for in paragraph (12), the holder of the right to administrate, concession, lease or use as a commodatum public real estate property is required to allow the access of electronic communications network providers' empowered representatives to such real estate under the same conditions as those of access permitted to persons empowered by those who own or control the physical infrastructure elements.

(14) The tariffs for exercising the right of access, levied in compliance with the provisions of paragraph (4) shall be income to their own budget - in the case of self-financed public institutions, to local budgets – in the case of local public authorities, or to the budgets from which they are financed - in the case of institutions financed from the state budget, from state social funds or from special funds.

**Article 7** - (1) The entities that have the obligation to establish and publish these conditions will send to ANCOM a copy of the document containing the access conditions established in accordance with the provisions of Article 6, as well as any amendments or completions to these conditions, within maximum 10 days after publication.

(2) Based on the information provided in paragraph (1) ANCOM will create, update and make available to the public on its own website a database including the conditions for access to the public property of the state or of the administrative-territorial units as well as the entity responsible for granting the access right.

**Article 8** - (1) With a view to exercising the right of access on the public property of the state or of the administrative-territorial units, the requester will submit a request to the holder of the right of administration, of concession, of lease or of commodatum, as applicable, over the property concerned, endorsed by all the required documents, proving compliance with the access terms. The respective entity will receive the request for settlement, when this possibility is provided by the documents granting it the right of concession, lease or commodatum or – as applicable – will send it within 5 days from its reception, accompanied by a motivated request, to the holder of the right of administration, established according to the law.

(2) The access request will contain information regarding:

a) the contact and identification data of the provider of electronic communications networks that intends to conduct the works of access on properties;

b) the area where the right of access is intended to be exercised, according to the access conditions established according to Article 6(3);

c) the works to be performed;

d) the purpose of requesting the right of access to the respective area;

e) the estimated duration of the required works.

(3) The holder of the right of administration, established according to the law, as applicable, or the holder of the right of concession, of lease or of commodatum, as applicable, when enabled to settle the request, will analyse the observance of the access conditions provided in Article 6 and will communicate to the requester the grounded answer, within 30 days from the date of receiving the request accompanied by the documents attesting compliance with the access conditions.

(4) The first request, provided in Article 6(2) sent to the holder of the right of administration, of concession, of lease or of commodatum, as applicable, with a view to exercising access on properties, will be analysed within 30 days from the date of posting the access terms, in accordance with the provisions of Article 6(2), not exceeding 60 days from the date of receiving the request. The request will include at least the elements provided in paragraph (2).

(5) The requests sent to the holder of the right of administration, of concession, of lease or of commodatum, with a view to exercising the right of access on public property, will be analysed based on the principles of transparency, objectivity, proportionality and non-discrimination. In case of receiving an incomplete request, a completion will be requested within 10 days from the reception date, or – in the case of the first request provided in Article 6(2) – from publishing the access conditions, the term provided in paragraphs (3) or (4) being correspondingly extended by the time interval within which the requester completes the request.

(6) The right of access may only be denied in objectively and soundly justified cases. The grounds for denying access will be communicated to the requester.

(7) Along with the reasons for denial provided in Article (6), the responsible entities may communicate to the requesting providers of electronic communications networks the areas in which they could have access under the published conditions, as an alternative to the refused access request.

(8) The requester may challenge the denial of the access right directly at the competent court, under the provisions of Article 13.

**Article 9** - (1) In the areas where - as established according to the provisions of specific normative acts - certain restrictions are applicable regarding the performance of works for access to the public property, so that additional elements of the electronic communications networks or other associated facilities cannot be installed, the already installed infrastructure elements of the existing network providers, could be subject to exercising the right of access, in accordance with the provisions of Chapter III.

(2) To the extent that the conditions established according to Article 6 are not fulfilled, and network operators have already installed physical infrastructure elements in the respective area, the holder of the right of administration, of concession, of lease or of commodatum, as applicable, will inform the requester, with a view to exercising the right of access to the respective physical infrastructure elements, in accordance with the provisions of Chapter III.

(3) The holder of the right of administration, of concession, of lease or of commodatum, as applicable, over the public real estate property, may request the providers of electronic communications networks to include contractual clauses that restrict the exercise of the right of access in certain areas, so that the progress of other public utility works should not be affected.

(4) The clauses established in accordance with paragraph (3) will not affect the functionality of the infrastructure elements and of the electronic communications networks and will be objective, non-discriminatory, proportionate and justified.

**Article 10** - (1) If the public institutions referred to in Article 6(1) or (2) exercise the exclusive right of ownership or control over providers of public electronic communications networks or publicly available electronic communications services, they are required to perform a structural separation of the activities associated with the exercise of property or control rights from the activities associated with granting the right of access to properties, in accordance with the provisions of this law.

(2) Except for projects to which the provisions of Article 25 apply, it is forbidden to grant or maintain special or exclusive rights in the installation of physical infrastructure elements necessary for supporting electronic communications networks.

(3) The setup of special or exclusive rights as regards the installation of physical infrastructure elements necessary for supporting electronic communications networks, under different conditions than the ones provided in paragraph (2), will be null and void.

(4) In the case of the projects referred to in Article 25(1), the central or local public administration authorities may decide that these can be carried out also by setting up real rights corresponding to the public property right, in compliance with the provisions of art. 25.

**Article 11** - (1) In order to exercise the right of access to private property, according to the provisions of Article 5, the requester will send the holder of the property right, to the holder of other main real rights, to the holder of the right of use or of administration, as the case may be, a request for the conclusion of an access contract. The request will be sent by using the advice of delivery postal service.

(2) The request shall contain the following elements:

a) the identification and contact details of the provider of public electronic communications networks that intend to perform the property access works;

b) the network and physical infrastructure elements to be located on that property and the area in which the right of access is intended;

c) the estimated duration of the works;

d) the conditions in which the requester's interventions on private property will be carried out for the maintenance and repair of the network and physical infrastructure elements to be located on that property.

(3) When the conditions provided in Article 5(1) are met, the holder of the property right, the holder of other real rights or the holder of the right of administration cannot stand against the exercise of the right of access excepting for soundly grounded reasons, even if there is a contrary convention.

(4) In the case of exercising the right of access to private property, the price owed by a provider of public electronic communications networks shall be the countervalue of the deprivation of use and the compensation for the direct and ascertained damages caused by the works and by the existence and functioning of the electronic communications networks and of the physical infrastructure elements installed.

(5) Where the right of access is exercised with a view to connecting a building to a fixed public electronic communications network, access to private property is free of charge when it has the same owner with the real estate property to be connected or it is located in the space of joint tenancy in condominium buildings.

(6) In the case of the real estate property of the state or of the administrative-territorial units, concessioned or leased, the provisions of this Article shall apply to the holders of the right of concession or lease, according to the documents by which the concession or the lease right has been granted, as applicable.

**Article 12** - (1) The holders of the right established according to Article 4 or 5 may exercise their right of access only after the conclusion of a contract with the holder of the property right, the holder of other main real rights, the holder of the right of use or administration

over the respective private real estate property or, in the case of public real estate property, with the holder of the right of administration, a contract which lays down the conditions for the exercise of the right of access, while - in the case provided in Article 5(2) – the contract will be signed with the owners' association.

(2) In the case of exercising the right of access to the public or private property of the state or of the administrative-territorial units, the contract stipulated in paragraph (1) may be concluded with the holders of the right of concession, lease or commodatum, as the case may be, in accordance with the acts by which the right of concession, lease or commodatum was granted.

(3) The conditions established by the contract concluded according to the provisions of paragraph (1) shall be non-discriminatory towards all the providers of electronic communications networks.

(4) If, following negotiation, a contract establishes conditions - including in terms of the price or tariff of access – that are more advantageous than those published in accordance with the provisions of Article 6 or than those provided in contracts concluded with other providers of electronic communications networks, these conditions shall be offered to all other suppliers, on a non-discriminatory basis.

(5) The holder of the right of administration, concession, lease or commodatum, as the case may be, has the obligation to publish - on its website - the contract for exercising the right of access to public property, within maximum 15 days from the date of its conclusion, in compliance with the legislation on trade secret protection.

(6) In order to ensure compliance with the provisions of paragraph (3), by means of an IT application available on ANCOM's website, the providers of electronic communications networks exercising the right of access to public or private property have the obligation to transmit to ANCOM information regarding the identification data of the real estate property which is the subject of the access right, the amount of the price or tariff and the measurement unit per which it is calculated, as well as a copy of each access contract, all in the form of an electronic document that has an incorporated, attached or logically associated extended electronic signature based on a qualified certificate that has not been suspended or revoked at the transmission date and generated by a secured electronic signature device.

(7) The manner of transmission of the information and documents provided in paragraph (6), as well as the conditions under which the providers of electronic communications networks have access to such information, shall be established by ANCOM President's decision, issued within 9 months from the date of entry into force of this law.

(8) The information provided in paragraph (6) shall be transmitted within maximum 90 days from the entry into force of ANCOM President's decision stipulated in paragraph (7) for all the access rights contracts concluded by that date, respectively within maximum 10 days from that date, for access rights contracts concluded after the date of entry into force of ANCOM President's decision.

(9) The contract concluded according to the provisions of this Article shall provide at least:

(a) the areas where access is permitted, the working methods to be used and the actual conditions, including the term within which the holder of the right of access may carry out construction, installation, maintenance, replacement or relocation of electronic communications networks or physical infrastructure elements, including emergency repairs;

b) the conditions under which the owner or the keeper of the real estate may perform works that would affect the access to the electronic communications networks or to the physical infrastructure elements necessary for their support or maintenance or which would require their removal;

c) modalities and terms of information between the parties regarding the execution of works on the public or private property on which the right of access is exercised;

d) the tariff or, as the case may be, the price due for exercising the right of access;

e) the conditions, including the term, in which the holder of the right of access will restore to the original state the property affected by the accomplishment of the access to property, according to the provisions of Article 15(3).

(10) Clauses contained in contracts prohibiting access to physical infrastructure or providing exclusive or special rights on the installation or provision of electronic communications networks or of dark fibre networks and on the installation of physical infrastructure elements necessary to support networks of electronic communications on a real estate public or private property are deemed inexistent.

(11) For the purpose of access pricing in accordance with the provisions of this law, the maximum tariffs established by ANCOM President's decision provided in Article 6(4) are indicative in negotiating the prices for access on, above, in or under the private real estate property of the state or of the administrative-territorial units.

(12) Holders of property rights, holders of other main real rights, holders of the right of use or administration over the private real estate property of the state or of the territorial-administrative units and the providers of electronic communications networks shall take utmost account of the maximum tariffs stipulated under Article 6(4) in the negotiation process of the contracts for the exercise of the right of access to private property.

(13) Information obtained before, during or after the negotiation of an access contract should only be used for the purpose for which it was provided, and the confidentiality of the information transmitted or stored shall be respected in all cases. Such information cannot be disclosed to any third party except for information requested by the regulatory authority or other entities enabled by law.

(14) The amounts collected as a price for the exercise of the right of access to the private property of the state or of the administrative-territorial units shall be income to their own budget, in the case of public institutions financed from own revenues, to the local budgets in the case of local public authorities, or to the budgets by which they are financed, in the case of institutions financed by the state budget, by the state social insurance budget or by special funds.

**Article 13** - (1) In case the contract stipulated in Article 12 cannot be concluded within maximum 2 months from the date of receipt of the request regarding the conclusion of the contract for access to the private property or of the request for exercise of the right of access to the public property or in the case of the refusal to grant the right of access, according to the provisions of Article 8(6), either party may address the competent court.

(2) If the application is found to be soundly grounded, the court may give a ruling which stands as a contract between the parties.

(3) Litigations shall be settled under emergency and priority procedures.

(4) The court decision issued by a court following a request submitted under the provisions of paragraph (1) may be challenged by second appeal.

(5) Where the right of access is exercised over a public real estate property, the holder of the right of administration, concession, lease or commodatum - as the case may be - over that property has the obligation to make the final ruling publicly available on its website within a maximum of 15 days from the date of the court's ruling.

(6) Within maximum 90 days from the date of entry into force of ANCOM President's decision provided in paragraph (7) - for all final court rulings concerning the exercise of the right of access to properties issued by that date -, respectively within maximum 10 days from the date of communication of the final court ruling - for final judgments concerning the exercise of the right of access to properties issued after the date of entry into force of ANCOM President's decision, the providers of electronic communications networks exercising the right of access to public or private property have the obligation to send a copy of this decision to ANCOM, and to make it available to any interested person.

(7) The manner of transmitting the copies of the final court rulings stipulated in paragraph (6), as well as the conditions under which the providers of electronic communications

networks have access to these documents shall be established by ANCOM President's decision, issued within 9 months from the date of entry into force of this law.

**Article 14 -** (1) The persons mandated by the providers of electronic communications networks to perform works of access to properties or to conduct survey or design activities for the purpose of performing such works have the right of access only to the extent necessary for the fulfilment of their job duties, based on a written mandate from the respective providers, upon the agreement of the holder of the right of usage, or – in the absence of this agreement, upon the agreement of the holder of the right of property, of other main real rights, of the right of administration, concession or lease, as applicable, and without prejudice to the right of use over the part of the real estate property that is not within the scope of exercising the access right under Articles 4 or 5.

(2) The right provided in paragraph (1) cannot be exercised, according to the legal provisions, unless a notification has been sent two working days before to the holder of the right of use, or – in the absence of this holder - to the holder of the right of property, of other main real rights, of the right of administration, concession or lease, as applicable, over the respective real estate property, excepting the case when emergency repair works are required.

(3) The holder of the right of use, and the holder of the right of property or of other main real rights, the holder of the right of administration, of concession or of lease, as applicable, do not have the right to deny access to the persons provided in paragraph (1) when such access is performed under the terms established by a contract concluded according to the provisions of Article 12 or by a court decision issued under Article 13.

(4) In the absence of an agreement, access may be authorised by court decision. In case of emergency, the court may decide access by way of a president's order.

**Article 15 -** (1) The right of access to properties does not interfere with the property right or with other main real rights over the respective real estate property, respectively over the physical infrastructure within the scope of the access right or over the electronic communications networks or over the infrastructure elements necessary to support such networks.

(2) The exercise of the right of access to properties will not cause a change of destination of the respective real estate property except within the necessary limits and will affect it to the least possible extent.

(3) The providers of electronic communications networks have the obligation to restore to the initial state the property affected by the works of access to properties or, by the agreement

of the parties, they can pay the holder of the right of property or of other real rights, the holder of the right of administration, concession or use, as applicable, the countervalue of the expenses determined by restoring the affected property to the initial state.

**Article 16** - Where certain works performed for exercising the right of access on properties are affected by public utility works of national or of local interest, the expropriation procedure will apply, under the terms of the legislation in force.

**Article 17** - (1) The holder of the right of access to properties may request the holder of the right of property, the holder of other real rights, the holder of the right of administration, of concession, of commodatum or of lease, as applicable, where there is no alternative solution, to cut down, under the legal provisions in the field of environment protection, the trees and bushes, as well as the branches or roots that jeopardize or may jeopardize the progress of works of access on properties. These operations will be performed at the requester's expense and upon payment of damages, according to this law.

(2) If, within 45 days from the date of receiving a request, the holder of the right of property, the holder of other real rights, the holder of the right of administration, of concession, of commodatum or of lease, as applicable, does not perform the operations provided in paragraph (1), the provider of electronic communications networks may perform the respective operations, after sending a notification at least two working days in advance.

(3) The operations provided in paragraph (1) will be performed in accordance with the legislation regarding environmental protection in force and in a way that would affect the outer image of the property to the least possible extent.

**Article 18** - The holder of the right of access to properties must relocate the elements of the electronic communications networks or the physical infrastructure elements necessary to support them, within one property, when this relocation is necessary for raising buildings or for the performance of works under the terms – including as regards the deadline – agreed by the contract concluded pursuant to Article 12 or by the court decision issued pursuant to Article 13.

### **CHAPTER III**

#### **Access to the network operators' physical infrastructure**

**Article 19** - (1) Network operators shall grant access to the physical infrastructure they own, administrate or concession, on objective, transparent, proportionate and non-

discriminatory conditions, to all the providers of public electronic communications networks that require access for building, installing, maintaining, replacing or moving elements of public electronic communications networks.

(2) The tariffs for access to the physical infrastructure shall ensure that the network operator obliged to allow the use of the physical infrastructure it owns, administrates or concessions has the possibility of recovering its costs, taking into account both the investments made from own contributions for rolling out the physical infrastructure within the scope of the access, and the costs incurred in providing such access, as well as the impact of the requested access on the business plan of the network operator, in particular as regards the investments that will be related to the physical infrastructure to which access is requested. When setting access tariffs, improvements brought to the physical infrastructure by the provider of public electronic communications networks shall also be considered, to the extent that these improvements also benefit the network operator.

(3) The request for access to the physical infrastructure of network operators shall necessarily include the following:

- a) the identification information and contact details of the provider of public electronic communications networks that intends to perform the physical infrastructure access works;
- b) the technical description of the network elements to be installed;
- c) the area in which access is sought and the physical infrastructure elements concerned;
- d) the estimated duration of the works;
- e) the conditions in which the requester's interventions will be carried out, for the maintenance and repair of the network elements to be located.

(4) A network operator may refuse to grant access to the physical infrastructure it owns, administrates or concessions only in the following objective and duly justified cases:

- a) the technical limitations of the physical infrastructure to which access was requested that would not allow the installation or operation of any elements of the public electronic communications network;
- b) the lack of space available for the installation of the public electronic communications network, including as a result of the network operator's duly proved plans;
- c) compliance with public safety and public health requirements;
- d) ensuring the security and integrity of other networks and of national critical infrastructure;
- e) eliminating the risk of significant interference that may disrupt services provided by the same physical infrastructure;

f) the availability of viable, reasonable and non-discriminatory means of providing wholesale access to the physical network infrastructure, offered by the network operator and adequate for the provision of public electronic communications networks.

(5) The reasons that led to the network operator's rejection of the request shall be communicated to the provider of the public electronic communications network requesting access, within maximum two months from the date of receipt of a complete access request.

(6) If the network operator refuses to grant access to the physical infrastructure it owns, administers or concedes, or if no agreement is reached with regard to the conditions under which access is exercised, within maximum two months from the date of receipt of a complete access request, either party may address ANCOM for the settlement of the dispute in accordance with the provisions of Chapter V and for establishing, where appropriate, the modalities and conditions, including tariffs, in which access to physical infrastructure will be achieved.

(7) Where the parties to a contract for the exercise of the right of access to the physical infrastructure of network operators fail to reach agreement on the modification of the contractual clauses on the modalities and conditions, including tariffs, in which access to physical infrastructure owned, administered or conceded by network operators is achieved, or if the network operator prevents the execution of the access works, any of them may address ANCOM for the settlement of the dispute in accordance with the provisions of Chapter V.

(8) The exercise of the right of access provided for in this Article shall be carried out in compliance with the principle of minimum damage to property.

**Article 20** - (1) In order to exercise the right provided in Article 19(1), the network operators shall, within maximum two months after the receipt of a complete application, make available to the providers of public electronic communications networks information on the location, route, type, and actual use of the physical infrastructure, as well as a contact point.

(2) The providers of public electronic communications networks, subject to the proportionality principle, may request from the network operators the information provided in paragraph (1) only if this is not available through the single information point provided in Article 21(2).

(3) The providers of public electronic communications networks shall specify - in the application provided for in paragraph (1) - the area where they intend to install elements of a public electronic communications network.

(4) Network operators may refuse access to the information referred to in paragraph (1) only in cases where this is available through the single information point provided for in Article

21(2) or where making such information available would affect national security or public health as well as the security and integrity of networks.

(5) The reasons which led to the rejection of the request for access to the information provided in paragraph (1) shall be communicated to the requesting providers of public electronic communications networks, no later than two months from the date of filing the request.

(6) If the network operator does not make available to the provider of public electronic communications networks the information stipulated in paragraph (1), either party may address ANCOM in order to resolve the dispute in accordance with the provisions of Chapter V.

(7) The providers of public electronic communications networks have the obligation to ensure the confidentiality of the acquired information according to the legislation on trade secret protection.

**Article 21** - (1) Network operators as well as public sector bodies which - in the exercise of their tasks - have any of the data provided in Article 20(1), in electronic format, shall make this information available to ANCOM not later than 1 January 2017.

(2) Using the information collected pursuant to paragraph (1), ANCOM will create, manage and make available to the providers of public electronic communications networks, via a software application available on a website, a single information point.

(3) Within 3 months from the date of entry into force of this law, the manner of applying the provisions of paragraphs (1), (2) and (5) will be established by ANCOM president's decision.

(4) Where a provider of public electronic communications networks directly requests a public sector body to provide access to the information referred to in Article 20 (1), the respective body shall make it available to the requesting provider insofar as it would not affect national security or public health, and the security and integrity of the networks.

(5) Any update or new element concerning the information referred to in Article 20(1) shall be transmitted to ANCOM within maximum two months from the date of acquiring such information.

(6) Where network operators and public sector bodies duly consider that further checks are necessary on the correctness of the updates or new elements concerning the information referred to in Article 20(1), the deadline referred to in paragraph (5) may be extended by a maximum of one month.

(7) As soon as possible, but not later than 1 January 2017, through the single information point provided for in paragraph (2), ANCOM shall make available to the providers of public electronic communications networks, by means of a computer application available on a web

page and based on the principles of proportionality, non-discrimination and transparency, a minimum of information held by the persons referred to in paragraph (1).

(8) In using information obtained under this Article, the providers of public electronic communications networks shall comply with the obligation stipulated in Article 20(7).

**Article 22** – (1) Network operators shall, upon a reasoned request, allow the personnel of the providers of public electronic communications networks - under transparent, non-discriminatory and proportionate conditions - to inspect the physical infrastructure elements concerned for the installation of elements of the electronic communications networks, which must be specified in the request submitted therefor.

(2) The authorization of access for the inspection provided in paragraph (1) shall be issued within one month from the date of receiving the request, specifying the conditions under which the inspection is to be carried out.

(3) The network operator may reject the inspection request only in cases where it would affect national security or public health and the security and integrity of networks.

(4) The reasons that led to rejecting the application for the authorization of the inspection shall be communicated to the requesting provider of public electronic communications networks within the time limit stipulated in paragraph (2).

(5) If the network operator does not authorize the inspection or if no agreement on the conditions for carrying out the inspection is reached within one month from receiving the request, either party may address ANCOM for the settlement of the dispute in accordance with the provisions of Chapter V.

(6) In using the information obtained under this Article, the providers of public electronic communications networks shall comply with the obligation stipulated in Article 20(7).

**Article 23** – (1) In order to avoid the occurrence of disputes and to ensure the speedy settlement of the arising ones, the indicative tariffs for access to the infrastructure of network operators, will be published, for certain types of physical infrastructure, by ANCOM President's decision.

(2) The indicative tariffs stipulated in paragraph (1) shall be established in compliance with the provisions of Article 19(2).

(3) The network operators and the providers of public electronic communications networks shall take utmost account of the indicative tariffs stipulated in paragraph (1) in negotiating the contracts for exercising the right of access to the physical infrastructure.

(4) ANCOM may publish on its own website guidance on situations in which network operators may refuse access provided in Article 19, as well as regarding carrying out the inspection activity provided in Article 22.

**Article 24** - (1) Where the duplication of infrastructure elements is economically inefficient, or physically impossible, any person holding – by any title – a physical infrastructure installed inside a building has the obligation, upon the request of a public electronic communications networks provider, to grant the latter access to the respective inner physical infrastructure, for the purpose of installing electronic communications networks, under objective, transparent, proportionate and non-discriminatory conditions – including, where applicable, in respect of tariffs, given that the exercise of this right or the access works' impact observes the legal provisions.

(2) Where, within maximum two months from the date of receiving a request for access to the physical infrastructure installed inside a building, the parties cannot reach an agreement, any of them may address ANCOM in order to settle the dispute in accordance with the provisions of Chapter V and establish, where applicable, the modalities and conditions - including tariffs - in which access to the inner physical infrastructure or access point is performed.

(3) Where the parties of a contract for access to the physical infrastructure installed inside a building do not reach an agreement on the amendment of the contractual clauses on the modalities and conditions, including tariffs, in which access to that physical infrastructure is effected, any of these may address ANCOM for the settlement of the dispute in accordance with the provisions of Chapter V.

(4) The tariffs stipulated in paragraph (2) shall be established in compliance with the provisions of Article 19(2).

(5) The exercise of the right of access provided for in this article shall be carried out in compliance with the principle of minimal damage to property.

**Article 25** - In the case of physical infrastructure projects intended for the installation of electronic communications or dark fibre networks with the participation or support of central or local public administration authorities, or fully or partially financed by public funds, the providers of public electronic communications networks benefit from open access to this physical infrastructure in compliance with the principles of non-discrimination, proportionality and objectivity.

(2) The technical and economic conditions in which the public electronic communications networks providers' access to the infrastructure provided in paragraph (1) is performed, as well

as any amendment or completion thereof, shall be subject to approval by the ANCOM President's decision.

(3) The administrative acts setting any conditions of operation for the physical infrastructures that are subject to the projects stipulated in paragraph (1) produce legal effects in terms of the technical and economic conditions in which the providers of public electronic communications networks providers' access to such physical infrastructure is performed, only after the approval provided for in paragraph (2) has been issued.

(4) For the purpose of applying the provisions of paragraph (2), the central or local public administration authorities that participate, support or finance, fully or partially, the development of physical infrastructure projects for the installation of public electronic communications or of dark fibre networks have the obligation to transmit to ANCOM the documentation endorsing the physical infrastructure project, in addition to the document containing proposals on the technical and economic access conditions.

(5) ANCOM decides on the application for approval of technical and economic access conditions within maximum 90 days from the date of registration of the documents stipulated in paragraph (4).

(6) If the documents transmitted according to paragraph (4) need to be completed, the term stipulated in paragraph (5) shall be suspended from the date of communicating the completion request until the date of ANCOM receiving the completions.

## **CHAPTER IV**

### **Provisions on authorising the construction of electronic communications networks**

**Article 26 -** (1) When drawing up land management plans or performing construction, repair, upgrading, refurbishment or extension works on the roadways or on the public utility networks, the necessity of installing electronic communications networks will be considered.

(2) When performing the works provided in paragraph (1) on public or private property, the authorities of the public administration that issue construction authorisations or that coordinate the performance of the respective works will post announcements on the filing of a request for the issuance of a construction authorisation for the works provided in paragraph (1) or on conducting other categories of works – on the public administration authority's website - and will send them, in electronic format, to the single information point provided in Article 27, within 10 days from the date of filing the request or from the date on which the authorities of the local public administration have become aware of the respective works, so that it could be

possible to synchronize certain works for the installation, maintenance, replacement or relocation of electronic communications networks or of the infrastructure elements required for supporting such networks, according to this law.

(3) Except for emergency interventions, as defined in Annex no. 2 "Defining certain specialty terms used in the law" to Law no. 50/1991 regarding the authorization of construction works, republished, with the subsequent amendments and completions, the works coordinated by the public administration authorities cannot be started before the deadline of at least 25 days from the date of publication of the notice stipulated in paragraph (2).

(4) The announcement provided in paragraph (2) shall contain information on the area in which the works referred to in paragraph (1) are to be performed and on the estimated date of starting the works.

(5) If the providers of public communications networks do not choose to perform the access works at the same time as the works of construction, repair, upgrading, refurbishment or extension of the roadways and of the public utility networks, according to the provisions of this article, the public administration authorities may establish restrictive conditions for granting construction authorisations in the respective area, for at most 2 years, for the works provided in paragraph (1), announced pursuant to this article, at least 6 months in advance.

**Article 27** - (1) Upon the written request of the providers of public electronic communications networks, the network operators shall make available - via a single information point organized by the Agency for the Digital Agenda of Romania - information regarding their ongoing or planned civil engineering works, for which a construction authorisation has been granted or the application for the issuance of a construction authorisation was submitted or is scheduled to be submitted within the next 6 months.

(2) The information provided in paragraph (1) shall include the location and type of works, the physical infrastructure elements concerned, the date on which the works started, or are expected to start, their duration, and the address of the point of contact.

(3) The request referred to in paragraph (1) shall specify the area in which the coordinated works are envisaged.

(4) Network operators have the obligation to provide electronically, through the single information point, the required information, in transparent, non-discriminatory and proportionate terms, within maximum 14 days from the date of receipt of the request.

(5) The conditions under which communication through the single information point is to be performed shall be established by order of the Minister of Communications and for the Information Society.

(6) Network operators may refuse to communicate the information referred to in paragraph (1) only in cases where it would jeopardize national security or public health, the security and integrity of networks, and where the information requested is already publicly available in electronic format or has been transmitted to the single information point.

(7) The reasons for the network operator's refusal to provide the information in paragraph (1) shall be communicated through the single information point to the providers of public electronic communications networks within maximum 14 days from the date of receipt of the request.

(8) If the network operators do not make available to the providers of public electronic communications networks the information provided in paragraph (1), either party may address ANCOM for settlement of the dispute in accordance with the provisions of Chapter V.

(9) The provisions of paragraph (8) shall not apply if the refusal to make available to the providers of public electronic communications networks the information in paragraph (1) is determined by the fact that the respective information are, in their entirety, already electronically available to the public or have been transmitted to the single information point.

(10) In using the information obtained according to this Article, the providers of public electronic communications networks shall comply with the obligation stipulated in Article 20(7).

**Article 28** - (1) Where the providers of public electronic communications networks require the coordinated execution of civil engineering works, the network operators have the obligation to allow the coordinated execution of such works, under transparent and non-discriminatory conditions, if the following conditions are cumulatively fulfilled:

a) the coordination of the works does not involve any additional costs, including due to delays in carrying out the network operator's civil engineering works;

b) the coordination of the works does not affect the control over the works;

c) the request for coordination is filed within maximum 10 days from the communication of the information provided in Article 27(1) or the response that the information requested is already made available to the public in electronic format or has been transmitted to the single information point, in the case of ongoing civil engineering works;

d) the coordination request must be submitted at least 30 days prior to the submission of a complete application for the issuance of the construction authorisation, in the case of civil engineering works in the project phase.

(2) If the network operator does not allow coordinated works to be carried out, or no agreement is reached within 30 days from the date of submission of the coordination request, either party may address ANCOM for dispute settlement in accordance with the provisions of

Chapter V and for the establishment of the conditions, including tariffs, for coordinating the works, as the case may be.

(3) Emergency civil engineering works, as defined by the legislation on the authorization of construction works, shall be exempted from the obligation stipulated in paragraph (1).

**Article 29 -** (1) Within the projects for the authorization and execution of construction works there will be planned systemized routes for the installation of electronic communications networks.

(2) The authorization of the physical infrastructure works of the electronic communications networks shall be based on the technical norms regarding the design and realization of the physical infrastructures and the electronic communications networks, as well as, where appropriate, on the technical norms regarding the design and realization of the constructions on which these are placed.

(3) The technical norms shall be approved by a joint order of the Minister of Communications and Information Society, the Minister of Regional Development and Public Administration and the President of ANCOM, within one year from the date of entry into force of this law.

(4) The technical norms shall include and establish the construction characteristics, the minimum capacity to be ensured by the routes corresponding to the different categories of construction works, the protection zones for certain elements of the electronic communications networks or physical infrastructure elements necessary for supporting these networks, the procedure for the issuance of the technical endorsement attesting compliance with these norms, which is required for the issuance of the construction authorisation, as well as the categories of endorsements and agreements required for the authorization of the public electronic communications networks physical infrastructure works.

(5) When drafting the technical norms provided in paragraph (2), the proposals of legally established professional associations of electronic communications networks providers, as well as of other legally established associations and of the concerned public authorities shall be considered.

(6) Until the entry into force of the technical norms provided in paragraph (2), the authorization of the electronic communications networks' physical infrastructure works shall be performed according to the legislation in force.

**Article 30 -** (1) The access works provided in the present law may be performed only in compliance with the legal provisions regarding:

a) placement, design, authorization of execution, execution, use and post-use of constructions;

b) design and placement of constructions and installations in the areas of electricity and natural gas networks, roads and in the area of railway physical infrastructure, on bridges, passages, viaducts and road tunnels, as well as in areas of civil aviation servitude;

c) conditions for the placement of technical public works and of pillars for the support of installations in the area of roads and in the area of the railway physical infrastructure;

d) quality in construction;

e) protection of public health and hygiene;

f) environmental protection;

g) labour protection;

h) protection of historical monuments.

(2) Insofar as a protection regime has been established in certain areas by land planning documentation and by the town planning documentation regarding the execution of access works, as well as in the case of the areas subject to a special regime, according to the legal provisions, the exercise of the right of access may only be done after obtaining the competent bodies' consent.

(3) The diligence of obtaining the necessary permits or authorizations lies with the person requesting the exercise of the right of access.

**Article 31** - In the area of roads, one cannot install physical infrastructure elements that:

a) restrict road reserve area;

b) hinder the movement of motor vehicles;

c) endanger traffic safety, including by reduced visibility.

**Article 32** - The persons carrying out installation, relocation or extension of the electronic communications networks have the obligation to mark the routes of the networks, under the conditions established by the technical norms provided in Article 29(2).

**Article 33** - (1) The installation of the network elements on the inner and outer walls of buildings shall be accomplished by using systematic routes, according to the technical norms provided in Article 29(2).

(2) The costs incurred by the systematization of the network elements shall be borne jointly by the providers of electronic communications networks that install these elements according to the technical norms provided in Article 29(2).

(3) Within maximum 3 years from the date of entry into force of the technical norms provided in Article 29(2), the providers of electronic communications networks shall carry out the necessary works in order to comply with the provisions of paragraph (1).

**Article 34 –** (1) All the buildings for which construction authorisation applications are to be submitted, including buildings with joint tenancy facilities, as well as buildings for which construction authorisations applications for major refurbishment works are to be submitted after 31 December 2016, will be provided with inner physical infrastructure ready for high-speed networks.

(2) All the blocks of flats for which construction authorisation applications are to be submitted, as well as the blocks of flats for which construction authorisation applications for major refurbishment works are to be submitted after 31 December 2016, will be provided with access points.

(3) Historic monuments, buildings of special architectural value, holiday homes, military buildings or other buildings used for public order or national security purposes shall be exempt from the obligations set out in paragraph (1) and (2).

(4) The conditions of application of the provisions of paragraphs (1) and (2) shall be established by the technical norms provided in Article 29(2).

**Article 35 –** (1) In the areas of protection of the elements of electronic communications networks or of the physical infrastructure elements necessary for their support, established by the technical norms provided in Article 29(2), works that could affect these elements shall not be performed without the prior written permission of the electronic communications networks provider.

(2) The electronic communications networks providers may require that works in the network protection area be carried out in the presence of their representatives.

(3) The electronic communications networks provider shall make available to the persons carrying out works in the protection area all the necessary information in order to avoid damage to the electronic communications network.

## **CHAPTER V**

### **Dispute settlement**

**Article 36** – (1) Disputes arising between network operators and providers of public electronic communications networks under Article 19(6) and (7), Article 20(6), Article 22(5), Article 27(8) and Article 28(2), as well as disputes between persons that hold – by any title - physical infrastructure installed inside a building and the providers of public electronic communications networks under Articles 24(2) and (3) shall be settled in accordance with this Chapter.

(2) If, during a dispute, ANCOM imposes on the parties the application of certain tariffs, these tariffs shall be established in compliance with the provisions of Article 19(2).

(3) If the obligation provided in paragraph 19(1) is imposed on a provider of electronic communications networks, ANCOM shall take into account the objectives established by Articles 4-7 of Government Emergency Ordinance no. 22/2009 on the establishment of the National Authority for Management and Regulation in Communications, approved by Law no. 113/2010, with the subsequent amendments and completions.

**Article 37** - (1) In the event of a dispute, according to Article 36(1), ANCOM shall be notified by the interested party by written request. When deemed necessary for the substantive discussion of the dispute, ANCOM will invite the parties in front of it by communicating to them, within a reasonable time, the date of the meeting. Depending on the complexity of the case, the parties may be invited to follow-up meetings.

(2) Debates in the meetings shall be recorded and communicated to the parties.

(3) The Parties may exercise their rights personally, or they may be assisted or represented. The parties' representatives must present the documents attesting this quality.

(4) In order to resolve the disputes under this Chapter, ANCOM may, where necessary, carry out on-site checks and use any information it holds in accordance with the legal provisions.

**Article 38** - (1) The disputes provided by the present law shall be settled by ANCOM President's decision, within at most:

a) 4 months from the notification date, in the case of disputes arising under Article 19 paragraphs (6) and (7);

b) 2 months from the notification date, in the case of disputes arising under Article 20(6), Article 22(5), Article 24 paragraphs (2) and (3), Article 27(8) and Article 28(2).

(2) In exceptional situations where, depending on the complexity of the dispute, a longer term is necessary for the proper settlement of the case, the terms provided in paragraph (1) may be extended by ANCOM President's decision.

(3) In the case of a dispute arising under Article 19(6) and Article 24(2) prior to the issuance of the dispute settlement decision provided in paragraph (1), ANCOM shall prepare and submit a preliminary solution to public consultation.

(4) Within the consultation procedure provided for in paragraph (3), ANCOM shall publish on its own website the text of the preliminary solution submitted to the consultation and the deadline for the parties and any interested persons to submit comments. The deadline shall be no more than 5 days from the date of publication on the website, except in cases where, given the complexity of the dispute, ANCOM considers that a longer term is required.

(5) The decision to settle the dispute shall include at least the following: name and registered office, namely the name and domicile of the parties, the subject matter of the dispute, the conduct of the procedure, the factual and legal grounds on which it is based, the measures taken and their enforcement means, as well as the ways in which they may be challenged.

(6) The decision to settle the dispute shall be communicated to the parties and shall be published on the ANCOM website, observing the principle of confidentiality.

(7) Decisions issued by the president of ANCOM according to the present chapter are administrative-judicial acts, and may be attacked in administrative contentious, according to the provisions of Article 12(5) of Government Emergency Ordinance no. 22/2009, approved by Law no. 113/2010, with the subsequent amendments and completions.

(8) The provisions of the present law are without prejudice to the right of persons to address directly the competent courts.

**Article 39** - (1) The optional dispute settlement procedure provided for in this Chapter, as well as the consultation procedure provided for in Article 38(3) shall be established by ANCOM President's decision, in compliance with the provisions of this law.

(2) Access to the dispute settlement procedures provided for in this Chapter shall be free of charge.

## **CHAPTER VI**

### **Providing information, control and sanctions**

**Article 40** - (1) ANCOM shall have the right to request from the providers of public electronic communications networks, network operators, public sector bodies and central or local

public administration authorities, as well as the entities participating in the implementation of the projects referred to in Article 25(1), as the case may be, any information necessary for the performance of the duties provided by this law.

(2) ANCOM may request the information provided in paragraph (1), in particular for the following purposes:

a) verification of compliance with the obligations under the provisions of this law or imposed by ANCOM in accordance with these provisions;

b) enforcement of the provisions of Article 21 paragraphs (2) and (3);

c) exercising the duties established by the provisions of Article 25(2);

d) resolving the disputes set out in Chapter V;

e) exercising the duties established by the provisions of Article 47(9);

f) setting the tariffs stipulated in Article 6(4) and Article 23(1).

(3) In order to facilitate and stimulate the roll-out of electronic communications networks by reducing the costs triggered by this roll-out, ANCOM will carry out an inventory of the public electronic communications networks and of the physical infrastructure elements necessary for their support, while the providers of public electronic communications networks have the obligation to transmit ANCOM and to update thorough information on the development and geographic location of public electronic communications networks and of the physical infrastructure elements necessary for their support, which they hold as owners or assignees.

(4) The manner of applying the provisions of para. (3), including the deadlines for updating the information, as well as the format of the information to be transmitted, shall be established by decision of the ANCOM president.

(5) Transmitting the information provided in paragraph (3) shall be carried out within 6 months from the date when ANCOM makes available to the providers of public networks a computer application through which such information can be transmitted.

(6) By the ANCOM President's decision provided in paragraph (4), the Authority may impose obligations regarding the transmission of the information stipulated in paragraph (3) on the network operators or the central or local public administration authorities that hold physical infrastructure elements as owners, administrators or assignees.

(7) The information provided in paragraph (1) shall be requested in writing and reasoned, specifying the deadline by which it must be transmitted, as well as the quantity and nature of such information, which must be proportionate to the purpose for which they were requested.

(8) The persons provided in paragraph (1) have the obligation to provide information within the time limit, at the level of detail and under the conditions indicated by ANCOM.

**Article 41** - ANCOM has the obligation to observe the consultation procedure established by the provisions of Article 135 of Government Emergency Ordinance no. 111/2011 on electronic communications, approved with amendments by Law no. 140/2012, with the subsequent amendments and completions, whenever it intends to adopt the measures provided by Article 12 paragraphs (7) and (11), Article 21(3), Article 23(1), Article 39(1) and Article 40(4).

**Article 42** - (1) The following deeds are deemed contraventions, unless they are committed under such conditions as to be deemed criminal offenses, and shall be sanctioned by fines ranging from 1,000 to 100,000 lei, as follows:

a) failure of the persons referred to in Article 6 paragraphs (1), (2) and (8) – to comply with the obligation stipulated in Article 7(1);

b) failure of the holder of the right to administrate, concession, lease or commodatum - as the case may be - to comply with the obligations stipulated in the provisions of Article 12(5) and Article 13(5);

c) failure of the providers of electronic communications networks to comply with the obligation provided under Article 12(6) in accordance with the manner and conditions established under Article 12(7) and within the term stipulated by the provisions of Article 12(8);

d) failure of the providers of electronic communications networks to comply with the provisions of Article 13(6) concerning the obligation to send to ANCOM a copy of the final Court decision on the exercise of the right of access to public property, in accordance with the provisions of Article 13(7);

e) the network operators' failure to comply with the obligation stipulated under Article 19(5);

f) failure to notify the network operators on the reasons which led to the refusal to grant access to the information provided in Article 20(1), according to the provisions of Article 20(5);

g) failure of the network operators and the public sector bodies to comply with the obligation to provide ANCOM with the information under Article 20(1), according to the provisions of Article 21 paragraphs (1) and (3);

h) failure of the network operators and of the public sector bodies to comply with the obligation established by Article 21(5) to transmit to ANCOM any update or new element concerning the information provided in Article 20(1), under the conditions established according to Article 21 paragraph (3);

i) the network operator's failure to notify on the reasons which led to the refusal of the application for the inspection authorization, according to the provisions of Article 22(4);

j) the public administration authorities' failure to comply with the obligations stipulated in Article 26(2), in accordance with the provisions of Article 26(4);

k) failure of the providers of public electronic communications networks to comply with the obligation to transmit and update the information provided by Article 40(3), under the conditions established according to Article 40(4);

l) failure of the network operators or of the central or local public administration authorities to comply with the obligations imposed under Article 40 (6).

~~(1<sup>+</sup>) Electronic communications providers that conclude contracts for the installation, maintenance, replacement of electronic communications networks and of supporting infrastructure elements, or that conduct works of access to properties, without having obtained the right of access or a construction authorisation, will be sanctioned by fine amounting to up to 10% of the turnover, in proportion to the number of users served without an authorisation, respectively to 1% per 100 users.~~

~~(indent introduced on 29 December 2018 according to article 85 item 1 of Government Emergency Ordinance no. 114/2018)~~

~~**NOTE: According to the provisions of Art. VII of the Government Emergency Ordinance no. 19/2019, the enforcement of the provisions of this indent will be suspended until 1 September 2019.**~~

~~**NOTE: According to the provisions of Art. II of Government Emergency Ordinance no. 54/2019, the enforcement of the provisions of this indent will be suspended until 15 March 2020.**~~

~~(indent repealed on 09 January 2020 according to Art. IV item 1 of Government Emergency Ordinance no. 1/2020)~~

(2) With a view to individualizing the sanction, in addition to the criteria provided in Article 21(3) of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions, the period of time during which the legal obligation has been violated shall be taken into account, as well as, where appropriate, the violation's consequences on competition.

(3) To the extent that this law does not provide otherwise, the provisions of Government Ordinance no. 2/2001, approved with amendments and completions by Law no. 180/2002, with the subsequent amendedments and completions, shall be applied to the contraventions provided for in this article.

(4) By way of derogation from the provisions of Art. 16 (1) and of Art. 28 (1) on the Government Emergency Ordinance no. 2/2001, approved with amendments and completions

by Law no. 180/2002, with the subsequent amendments and completions, and of Art. 22 (2) of Law no. 203/2018 on the measures to increase the efficiency of the payment of contravention fines, with the subsequent amendments, where sanctions are applied for the offences provided in indent (1), the offender may pay half of the minimum fine, within 15 days from date when the minutes on assessing the contravention and on applying the sanction are handed over or otherwise communicated, and the control personnel must mention this possibility in the minutes.

(indent introduced as of 31 May 2019, according to Art. VII of Law 109/2019)

**Article 43** - (1) The control of the observance of the provisions of the present law rests with ANCOM, acting through the specialized personnel authorized for this purpose, hereinafter referred to as *control personnel*.

~~(1<sup>2</sup>) Conducting works without a construction authorisation will be assessed and sanctioned by the control personnel of the State Inspectorate for Constructions.~~

~~(indent introduced on 29 December 2018 according to Art. 85 item 2 of Government Emergency Ordinance no. 114/2018)~~

~~(indent repealed on 09 January 2020 according to Art. IV item 2 of Government Emergency Ordinance no. 1/2020)~~

(2) The control personnel, as well as their attributions, shall be established by ANCOM president's decision.

(3) In the exercise of their specific tasks, the control personnel may carry out control actions, including unannounced ones, in which they may request - mentioning the legal basis and purpose of the request - any documents necessary for carrying out the control action, may take copies of any registers, financial-accounting and commercial documents or other acts or documents, in compliance with the legal provisions in force.

(4) During the control actions, control staff can request and receive - on-site or within a specified term - any information necessary to carry out the check and may set deadlines for providing such information under the sanction provided for in Article 46(1) a), in compliance with the legal provisions in force.

(5) The result of the control actions carried out by the control personnel shall be recorded in a control note, except in the cases provided by Article 44(1).

**Article 44** - (1) The contraventions provided in Article 42 shall be recorded by the control personnel in the report on finding the contravention and applying the sanction, and the sanction shall be applied by the president of ANCOM, by written resolution on the report on finding the contravention and applying the sanction.

(2) The fines provided as sanctions for committing the contraventions provided in Article 42 can be applied to both legal and natural persons.

**Article 45** - (1) In the event of finding any of the contraventions provided in Article 42, ANCOM may order any measures necessary to ensure the infringement is brought to an end and the situation is remedied.

(2) The measures provided in paragraph (1) shall be appropriate and proportionate to the infringement committed and shall provide a period within which the supplier must comply with them.

**Article 46** – (1) ANCOM may impose administrative fines of up to 30,000 lei for each day of delay, establishing also the date from which they are calculated, in order to bring about:

a) providing full and accurate information as requested by ANCOM, in accordance with the provisions of this law;

b) allowing the verification provided in Article 37(4);

c) compliance with the decision issued in accordance with the provisions of Article 38;

d) submitting to the control stipulated in Article 43;

e) compliance with the measures taken according to the provisions of Article 45;

f) compliance with the obligations stipulated by the provisions of Article 47 paragraphs (6) and (10).

(2) ANCOM President's decision imposing the sanctions stipulated in paragraph (1) may be brought in front of the administrative court, in accordance with the provisions of Article 12(5) of Government Emergency Ordinance no. 22/2009, approved by Law no. 113/2010, with the subsequent amendments and completions, and is enforceable without any other formality.

(3) The amounts resulting from the collection of the administrative fines set in paragraph (1) shall be fully retained as own revenues on a permanent basis, available to ANCOM, and shall be used in accordance with the provisions of the revenue and expenditure budget approved according to the law.

## **CHAPTER VII**

### **Final and transitory provisions**

**Article 47** – (1) Upon the request of the entities referred to in Article 6(1) or of the providers of electronic communications networks, the clauses contained in the contracts for exercising the right of access to real estate public property concluded by the date of entry into

force of this law shall be modified, within 90 days from the date of entry in force of ANCOM President's decision provided in Article 6(4), in order to ensure compliance with the provisions of this law.

(2) Until the date of entry into force of ANCOM President's decision provided in Article 6(4), the requests for access to the public property of the state and of the administrative-territorial units shall be subject to the provisions of Articles 6, 8 and 13 of Law no. 154/2012 on the regime of electronic communications network infrastructure and to the administrative acts issued pursuant to these provisions.

(3) If, until the date of publication of the access conditions according to the provisions of Article 6(1), property access works have been carried out but no contracts for the exercise of the right of access to properties have been concluded, the responsible entities have the obligation to conclude such contracts in accordance with the provisions of the present law, within 90 days from the date of entry into force of ANCOM President's decision provided in Article 6(4).

(4) Upon the expiry of the terms provided in paragraphs (1) and (3), the clauses concerning the tariffs for the exercise of the right of access to public property, established and practiced in violation of the provisions of ANCOM president's decision provided in Article 6(4) are deemed unwritten, and the amounts thus collected are returned to the providers of electronic communications networks from which they were charged.

(5) In the event of non-observance of the obligation to publish the conditions under which the right of access is exercised, according to the provisions of Article 6 paragraphs (1), (2) or (8), as well as in the case of setting access conditions or obligations in violation of the provisions of Article 6, Article 9(4) or Article 12 paragraphs (3) and (4), ANCOM or - as the case may be - any interested person may address directly to the competent court, in order to oblige the entities referred to in Article 6 paragraphs (1), (2) or (8) to establish and/or publish access conditions, in compliance with the provisions of this law.

(6) Within 30 days from the date of entry into force of this law, in the case of physical infrastructure or dark fibre installation projects referred to in Article 25(1), for which the issuance of an endorsement according to the provisions of Law no. 154/2012 was not requested, the central or local public administration authorities that participate in or support the implementation of or finance these projects have the obligation to transmit to ANCOM the technical and economic conditions in which the access of the providers of public electronic communications networks is allowed with a view to enforcing the provisions of Article 25(2), under the conditions laid down in this Article.

(7) The procedures for the issuance of the endorsement provided in Article 37(3) and in Article 10(3) of the Law no. 154/2012, which have not been completed by the date of entry into

force of this law, as well as the documents issued by ANCOM within these procedures, are subject to the legislation in force on the date of their initiation, respectively issuance.

(8) Any changes or additions to the technical and economic conditions in which access to the infrastructure installed through the implementation of the projects referred to in paragraph (7) shall be subject to the approval of ANCOM in accordance with the provisions of this law.

(9) In case the central or local public administration authorities breach the provisions of paragraph (6) or the projects referred to in paragraph (6) have not been implemented within maximum 90 days from ANCOM's issuing the endorsement under Article 25(2) or the endorsements issued by ANCOM pursuant to Law no. 154/2012 have not been implemented within maximum 90 days from the date of entry into force of this law, the Authority will establish and impose - by ANCOM President's decision -, on the persons implementing the respective physical infrastructure or dark fibre projects, and taking into account the content of the endorsement, where such endorsement is provided, the technical and economic conditions in which the access of the providers of public electronic communications networks is exercised.

(10) Within 60 days from the date of communication of ANCOM president's decision provided in paragraph (9), the persons implementing physical infrastructure projects have the obligation to bring the access contracts already concluded in line with the technical and economic access conditions established by ANCOM.

(11) Subject to the provisions of paragraph 12, the contracts for exercising the right of access to private property in progress on the date of entry into force of this law shall continue to produce legal effects under the legislation in force on the date of their conclusion, until the expiry of the term for which they were concluded.

(12) In the case of access contracts on, above, in or under the private property of the state or of the administrative-territorial units, within 90 days from the date of entry into force of ANCOM president's decision provided in Article 6(4), the holders of the right of property, the holders of other main real rights, the holders of the right of use or of administration over these real estate properties, as the case may be, shall analyse the compliance of the existing tariffs with the indicative tariffs stipulated in Article 12(11).

(13) Starting from the date of entry into force of this law, the provisions of the normative or administrative acts issued by the central or local public administration authorities based on or according to which compliance with certain conditions or the payment of certain taxes, duties, tariffs and any other amounts for the access of the providers of public electronic communications networks to the network operator's infrastructure shall no longer be applicable. The access requests submitted under the provisions of Article 19 are to be settled, including as regards access tariffs, in accordance with the provisions of this law.

(14) The clauses in the contracts for access to the network operators' infrastructure concluded prior to the entry into force of this law, which have been enforced according to the provisions of the administrative acts provided for in paragraph (12), shall continue to produce effects, including as regards tariffs, only until they are modified in accordance with the provisions of this law.

**Article 48 –** (1) The provisions of Articles 42-45 shall enter into force within 30 days from the date of publication of this law in the Romanian Official Journal, Part I.

(2) ANCOM President's decision issued based on Article 35(3) of Law no. 154/2012 shall remain applicable until the date of entry into force of ANCOM President's Decision referred to in Article 40(4).

**Article 49 -** Law no. 50/1991 on authorising the execution of construction works, republished in the Romanian Official Journal, Part I, no. 933 of 13 October 2004, with the subsequent amendments and completions, shall be amended and completed as follows:

**1. In Article 2, after paragraph (3), a new paragraph, (3<sup>1</sup>), shall be inserted, reading as follows:**

"(3<sup>1</sup>) The construction authorisations for the installation of electronic communications networks and the construction authorisations for the installation of physical infrastructures necessary for these networks shall be issued in compliance with the technical norms provided by the legislation regarding the regime of physical infrastructure of the electronic communications networks, as well as, - as the case may be – based on the technical regulations regarding the design and construction of the buildings on which they are placed."

**2. After Article 7<sup>1</sup>, a new article, Article 7<sup>2</sup>, shall be inserted, reading as follows:**

"Article 7<sup>2</sup> - With a view to the issuance of the town planning certificate, and of the construction authorisation for the execution of construction works for the installation and roll-out of electronic communications networks and of the associated physical infrastructures, as well as for the connection to the electricity grid, upon the request of the electronic communications network providers:

a) by way of exception from the provisions of Article 6(4) and of Article 7(1) letter b), the plots where electronic communications networks or physical infrastructure elements necessary for their support are to be installed or deployed that are not included in the land and

real estate registries can be identified by the number of the land strip and plot, according to the title and record of ownership, or by any other means of identification provided by law.

b) by way of exception from the provisions of Article 7(1) letter b), the following are deemed titles for the issuance of the town planning certificate and of the construction authorization: leasing contracts concluded by the providers of electronic communications networks with the owners, other holders of main real rights, the administrators, the assignors, the lessors, the holders of the right of commodatum over the land or buildings where electronic communications networks or physical infrastructure elements necessary for their support are to be installed or deployed, as well as electricity connection contracts, if these contracts explicitly include the owners' consent for the execution of the construction works or, in the absence of such leasing contracts, the final court decisions standing as a contract between the parties."

**3. Article 11(2) shall be amended and shall read as follows:**

"(2) The exemption from holding a construction authorisation also applies to works for the placement of closed or covered stands and booths intended for the distribution and sale of print media, books and flowers, which are raised directly on the ground, without foundations and platforms, as well as without hook-ups and and/or connections to urban utilities, excluding electricity, as well as to repair/rehabilitation/refurbishment works, including the modification, replacement or addition of equipment to electronic communications networks, if they do not require works on the physical support infrastructure, carried out by the beneficiaries of the general authorization regime in the field of electronic communications and/or by network operators."

**4. In Annex no. 2, a new point shall be inserted after item 2 of the definition "the right to carry out construction works" - point 3, reading as follows:**

"3. the right of claim acquired through: a contract concluded under the specific legislation in the field of electronic communications infrastructure or a final court decision standing as a contract between the parties".

**5. In Annex no. 2, the definition "Rehabilitation works" shall be followed by a new definition - "Major refurbishment works for the physical infrastructure of electronic communications networks", reading as follows:**

***"Major renovation works for the physical infrastructure of electronic communications networks"***

Civil construction works or civil engineering works executed at the end user's location, including structural alterations of the whole physical infrastructure or a substantial part of it and requiring a construction permit."

**Article 50** - Government Emergency Ordinance no. 111/2011 on electronic communications, published in the Romanian Official Journal, Part I, no. 925 of 27 December 2011, approved, with amendments and completions, by Law no. 140/2012, as amended and supplemented, shall be amended and completed as follows:

**1. In Article 13, paragraphs (2), (4) and (6) shall be amended and shall have the following content:**

"(2) In the case of projects for the installation of public electronic communications networks, carried out with the participation or support of central or local public administration authorities or financed – fully or partially - by public funds, for the purpose of providing publicly available electronic communications services, which hinder, restrict or distort competition in the electronic communications sector or have such an effect, the providers of electronic communications networks or services shall have open access to such networks, in compliance with the principles of non-discrimination, proportionality and objectivity."

.....

(4) The technical and economic conditions under which the provision of publicly available electronic communications services or access to the electronic communications networks in the case stipulated in paragraph (2) is ensured, as well as any amendments or additions to these conditions shall be subject to ANCOM's approval, issued by its President's decision, within maximum 90 days from the date of registration of the document containing the proposed technical and economic conditions.

.....

(6) The administrative acts establishing any conditions of operation for the public electronic communications networks that are subject of the projects stipulated in paragraph (2) shall not produce legal effects until the approval referred to in paragraph (4)."

**2. After Article 13, a new Article - 13<sup>1</sup> - shall be inserted, reading as follows:**

"Article 13<sup>1</sup> - (1) In the case of projects for the installation of public electronic communications networks under Article 13(2), the central or local public administration authorities that participate in or support the implementation of, or finance these projects shall transmit to ANCOM the technical and economic conditions in which the provision of publicly

available electronic communications services or access to public electronic communications networks is performed, in pursuit of Article 13(4), within maximum 30 days from the date of registration of ANCOM's request therefor.

(2) In case of the central or local public administration authorities' breach of the provisions of paragraph (1) or of failure to implement, within maximum 90 days, of the approval issued by ANCOM according to Article 13(4) for the projects referred to in paragraph (1), an ANCOM President's decision shall determine and impose - on the person or persons carrying out the respective projects for the installation of public electronic communications networks - the technical and economic conditions in which the provision of publicly available electronic communications services or access to public communications networks is performed.

(3) Within maximum 60 days from the date of communication of the ANCOM President's decision provided in paragraph (2), the persons implementing the projects referred to in paragraph (1) have the obligation to bring the contracts for the provision of publicly available electronic communications services or the contracts for access to those public electronic communications networks in line with the technical and economic access conditions established by ANCOM."

**3. In Article 120, after paragraph (8), two new paragraphs - paragraphs (9) and (10) - shall be inserted, reading as follows:**

"(9) ANCOM has the right to request from the central or local public administration authorities referred to in Article 13(2) all the documents and information necessary to apply the provisions of Article 13 paragraphs (4) and (5).

(10) If the documents and information submitted in accordance with paragraph (9) require completion or clarification, the term stipulated in Article 13(4) shall be suspended from the date of communicating the completion or clarification request until the date of receipt of such completions or clarifications by ANCOM."

**4. In Article 135, paragraph (1) shall be amended and shall read as follows:**

"Article 135. - (1) Except for the measures adopted pursuant to the provisions of Article 13(4), Article 131(2), Article 97(6), Article 116 or 117, ANCOM has the obligation to observe the consultation procedure established by this article whenever it intends to take measures in pursuit of the provisions of this Emergency Ordinance that are likely to have a significant impact on the relevant market."

**5. In Article 151(1), a new indent – a<sup>1</sup> – shall be inserted after point (a), reading as follows:**

„a)<sup>1</sup> observance of the obligation stipulated in Article 13<sup>1</sup>(3);”

**Article 51** - In Article 5(3) of Government Emergency Ordinance no. 34/2013 on the organization, management and exploitation of permanent meadows and amending and supplementing the Land Law no. 18/1991, published in the Romanian Official Journal, Part I, no. 267 of May 13, 2013, approved with amendments and completions by Law no. 86/2014, with the subsequent amendments and completions, a new letter, letter b<sup>1</sup>) shall be inserted after letter b), reading as follows:

„b<sup>1</sup>) installing underground or overground elements of physical infrastructure necessary to support public electronic communications networks;”

**Article 52** - On the date of entry into force of this law, Law no. 154/2012 on the regime of the electronic communications network infrastructure, published in the Romanian Official Journal, Part I, no. 680 of 1 October 2012, except for the provisions of Article 6, 8, 13 and Article 33(1) indent b), which shall cease to be applicable on the date of entry into force of ANCOM President's decision provided in Article 6(4) and except for the provisions of Article 42 item 1.

This law transposes:

- the provisions of Articles 11 and 12 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), published in the Official Journal of the European Communities, series L, no. 108 of 24 April 2002, as amended and supplemented;
- the provisions of Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of installing high-speed electronic communications networks, published in the Official Journal of the European Union, series L, no. 155 of 23 May 2014.

\*\*\*\*\*

This law was adopted by the Parliament of Romania, in compliance with the provisions of Article 75 and Article 76(2) of the Romanian Constitution, republished.

## Summary of legislative interventions:

**26 July 2016** (Romanian Official Journal, Part I, no. 559 of 25 July 2016)

- entry into force of **Law no. 159/2016** on the regime of electronic communications networks infrastructure and on establishing certain measures for reducing the cost of electronic communications networks roll-out, excepting Art. 42-45

**24 August 2016** (Romanian Official Journal, Part I, no. 559 of 25 July 2016)

- entry into force of Art. 42-45 of Law no. 159/2016

**29 December 2018** (Romanian Official Journal, Part I, no. 1116 of 29 December 2018)

- **Government Emergency Ordinance no. 114/2018** establishing certain fiscal, budgetary and public investment measures, amending and completing some normative acts and extending some deadlines
- **introduction of** Art. 42 (1<sup>1</sup>) and of Art. 43 (1<sup>2</sup>)

**29 March 2019** (Romanian Official Journal, Part I, no. 245 of 29 March 2019)

- **Government Emergency Ordinance no. 19/2019** on amending and completing some normative acts
- **suspension of** the enforcement of Art. 42 indent (1<sup>1</sup>) until 1 September 2019

**28 May 2019** (Romanian Official Journal, Part I, no. 418 of 28 May 2019)

- **Law no.109/2019** on amending and completing certain normative acts in the field of electronic communications, postal services and radio equipment market surveillance
- **introduction of** Art. 42 (4)

**4 July 2019** (Romanian Official Journal, Part I, no. 552 of 4 July 2019)

- **Government Emergency Ordinance no. 54/2019** on establishing measures in the field of electronic communications and of electronic communications network physical infrastructure
- **suspension of** the enforcement of Art. 42 (1<sup>1</sup>) until 15 March 2020

**9 January 2020** (Romanian Official Journal, Part I, no. 11 of 9 January 2020)

- **Government Emergency Ordinance no. 1/2020** on several financial-budgetary measures and for the amendment and completion of some normative acts

- **repeal** of Art. 42 (1<sup>1</sup>) and Art. 43 (1<sup>2</sup>)